



Wage and Hour Division

Notice of Approved Agency Information Collection; Information Collection: Records to be kept by Employers—Fair Labor Standards Act

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA), the Wage and Hour Division (WHD) is providing notice to the public that the WHD sponsored information collection request (ICR) titled, “Records to be kept by Employers—Fair Labor Standards Act,” has been approved by the Office of Management and Budget (OMB). WHD is notifying the public that the revision to this ICR is effective immediately and approved through November 30, 2022.

DATES: OMB approval of the revision of this ICR is effective immediately with an expiration date of November 30, 2022.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Division of Regulations, Legislation, and Interpretations, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210; telephone: (202) 693-0406 (this is not a toll-free number), or send an email to WHDPRAComments@dol.gov. Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape or Disc), upon request, by calling (202) 693-0023 (not a toll-free number). TTY/TDD callers may dial toll-free (877) 889-5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION: The Department of Labor published the final rule, Tip Regulations under the Fair Labor Standards Act, on December 30, 2020 (85 FR 86756). The final rule explains the impact of the Consolidated Appropriations Act, 2018 (CAA) amendments to sections 3(m), 16(b), 16(c), and 16(e) of the FLSA. The amendments, among other things, prohibit employers from keeping employee tips. The Department submitted the ICR to OMB at the time of publication of the final rule. The ICR was previously submitted with the notice of

proposed rulemaking under a duplicate control number 1235-0030, and OMB asked that the Department resubmit with the final rule after reviewing any comments. Because two separate actions implicating the ICR 1235-0018 were occurring in close proximity to one another, and OMB can only have one ICR under the same control number open at a time, the Department was encumbered by the need to submit the same package for two separate actions. The addition of 1235-0030 provided a temporary solution for OMB to act on the same collection at the same time. The ICR under control number 1235-0018 was unencumbered at the time of the final rule so the Department submitted the revision to add the burdens from the Tip Regulations final rule.

On February 24, 2021, OMB issued a Notice of Action approving the revision of this ICR under OMB Control Number 1235-0018. Section (k) of 5 CFR 1320.11, “Clearance of Collections of Information in Proposed Rules” states, “[a]fter receipt of notification of OMB’s approval, instruction to make a substantive or material change to, disapproval of a collection of information, or failure to act, the agency shall publish a notice in the FEDERAL REGISTER to inform the public of OMB’s decision.” This notice fulfills the Department’s obligation to notify the public of OMB’s approval of ICR.

Dated: March 15, 2021.

Amy DeBisschop,

Director, Division of Regulations, Legislation, and Interpretation.

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